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Supreme Court, U. S.
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In the Supreme Court of the United States

October Term, 1975
No. —— Original

COMMONWEALTH OF PENNSYLVANIA,
Plaintiff

v.

STATE OF NEW JERSEY,
Defendant

MOTION FOR LEAVE TO FILE COMPLAINT
and
COMPLAINT
and
INTERROGATORY

ROBERT P. KANE
Attorney General
LAWRENCE SILVER
DONALD J. MURPHY
Deputy Attorneys General

Department of Justice
Capitol Annex Building
Harrisburg, Pennsylvania
(717) 787-1100

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MOTION FOR LEAVE TO FILE COMPLAINT

Invoking the original and exclusive jurisdiction of this Court under the Constitution of the United States and 28 U.S.C. §1251 (a) (1), since this is a controversy between two States, the Commonwealth of Pennsylvania, by its Attorney General, respectfully requests leave to file its complaint against the State of New Jersey, which is submitted herewith.

ROBERT P. KANE
Attorney General
LAWRENCE SILVER
DONALD J. MURPHY,
Deputy Attorneys General

Department of Justice
Capitol Annex Building
Harrisburg, Pa. 171209
(717) 787-1100

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COMPLAINT

The Commonwealth of Pennsylvania by its Attorney General, Robert P. Kane, files this complaint and in support of it states:

1. The original and exclusive jurisdiction of the Supreme Court of the United States is invoked pursuant to Article III, Section 2 of the Constitution of the United States and 28 U.S.C. §1251(a)(1) since this is a controversy between two states.

2. The Plaintiff, the Commonwealth of Pennsylvania, is a state of the United States and brings this action,

a. on behalf of itself and

b. as *parens patriae* on behalf of its citizens and residents.

3. The Defendant, the State of New Jersey, is a state of the United States.

4. The New Jersey Transportation Benefits Tax Act, N.J.S.A. 54; 8A-58 et seq. (hereinafter referred to as the "Act"), imposes a tax on nonresidents' New Jersey derived income when the nonresident of a state which is certified by New Jersey's Transportation Commissioner as a critical area state.

5. Plaintiff, Commonwealth of Pennsylvania, has been always certified as a critical area state.

6. The rate of taxation under the Act presently is 2%; however, the rate has always been adjusted to be exactly equivalent to the rate of taxation imposed by Pennsylvania pursuant to its income tax, Tax Reform Code of 1971, 72 P.S. §7301 et seq., which is a tax on all income earned in Pennsylvania.

7. The Act also imposes the tax upon New Jersey residents whose income is derived from a critical area state, N.J.S.A. 54:8A-59, but then exempts all such income to the extent it is taxed by such state, N.J.S.A. 54:88-94.

8. Since Pennsylvania, pursuant to the Tax Reform Code of 1971, 72 P.S. §7302(b), taxes its residents and New Jersey residents at a rate of 2% on income earned in Pennsylvania, New Jersey residents working in Pennsylvania are not taxed by New Jersey.

9. The domestic earned income of New Jersey residents is not taxed by New Jersey.

10. By reason of the operation of the Act, New Jersey taxes only the income of non-residents, or Pennsylvanians, working in New Jersey.

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INTERROGATORY

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant New Jersey, by an appropriate official, shall answer the following interrogatory, under oath, within 45 days of the date after service of the complaint and this interrogatory.

1. For fiscal years 1972, 1973, 1974 and 1975 state the amount of revenues New Jersey has collected or expects to collect from Pennsylvania residents pursuant to New Jersey's Transportation Benefits Tax Act.

(s) LAWRENCE SILVER